

3 of 4

EXHIBITS PLAINTIFF'S REPLY TO WP 479

EXHIBIT #31 Plaintiff's deposition pages 124 thru to 130 RE-2012 eBay sale and N. Novocin June 2020 declaration wrong year 1997 not 1977.

EXHIBIT#32 Norb Novocin Deposition page 1with 1997 incorrect year. Pl.Evid 000174

EXHIBIT #33 Red Pencil Signature with wrong spelling ANNA MARIA ...Gifted 1977 Plaintiff Evid. 000165

EXHIBIT#34 Jason Packer Declaration basing data on Plaintiff's website email annamarie@trombettaart.com that was NEVER used to Contact WorthPoint at any time. Plaintiff's website email is public and only used to receive and respond to SENT emails to that address.

EXHIBIT #35 Plaintiff's deposition pages 47-48 and 178 only Yahoo email and Plaintiff's website email not used to contact sources only as a response.

Plaintiff's Statement # 6

EXHIBIT #36 eBay Phone Transcript pages 8, 9 and 19 verified WP website by eBay agents.

EXHIBIT #37 Jan. 14, 2016 Item Review Request on WorthPoint website to remove false 1972 URL Pl. Evid 000285 and Pl. Evid 000286.

EXHIBIT #38A 2016 Jan-thru Feb. Phone calls from Plaintiff with WorthPoint staff Anita Brooks.
38B Pl. Evid 000930 WorthPoint outgoing phone message "looking to buy or sell press 3.

EXHIBIT #39 Plaintiff's deposition pages 195 thru to 200 (See EX. 37)

Plaintiff's Statement #7

EXHIBIT #40 Norb Novocin deposition pages 38-41-43

EXHIBIT #41 A WorthPoint ad and Text Webpage Pl. Evid. 000158 000160
B WorthPoint 2022 SENT email to Plaintiff despite litigation Pl. Evid. 000880

Plaintiff's Statement # 10

EXHIBIT #42 Full eBay phone call transcript confirming 1972 false post on WorthPoint's website.

EXHIBIT # 43 WorthPoint's evidence WP000062, WP000096 and WP0000135 The same email response from Will Seippel is in Plaintiff's Evid.00034 and 000039.

EXHIBIT # 31 (1)

Page 124

1 A. Trombetta

2 A. You are asking me that question but
3 you are not giving me a time frame.

4 Are you asking me that if I had
5 evidence in and on Thursday August 13, 2015 when I
6 printed this out?

7 Q. I am saying sitting is here today, do
8 you have any evidence whether or not this listing,
9 this posting had come from eBay?

10 A. Sitting here today there is a plethora
11 of seven years worth of miscommunication and
12 duplicitous responses. I cannot say in complete
13 certainty that this sale happened on eBay.

14 MR. BIALEK: So again, can you read
15 back my question please Lynne?

16 (Record read.)

17 A. I can't say with certainty.

18 Q. And sitting here today, do you have
19 any evidence as to whether Estate Auctions was the
20 author of this listing?

21 A. Based on a phone call on January 10,
22 2017 straight from Mr. Novocin's words recorded in
23 a phone call, he claims that this painting was
24 sold on eBay. August 30, 2022

25 Q. Do you have any evidence as you sit

EXHIBIT #31 (2)

Page 125

1 A. Trombetta
2 here today whether this posting was crafted by
3 Estate Auctions?

4 A. There is a declaration dated July
5 2020, the date I can't give you verbatim, that is
6 in the words of Norb Novocin that he gleaned my
7 biography. I can't remember the statements
8 verbatim, but according to Norb Novocin you would
9 have to read his declaration which according to
10 court documents is subject to penalty of perjury.

11 MR. BIALEK: Can you please mark this
12 as Defendants' Exhibit 10 which is a
13 Declaration of Norb Novocin in Support of
14 Defendant's Motion For an Order Requiring
15 Plaintiff to Post a Bond.

16 (Defendants' Exhibit 10, Declaration
17 of Norb Novocin in Support of Defendant's
18 Motion For an Order Requiring Plaintiff to
19 Post a Bond, marked for identification, as
20 of this date.)

21 Q. I am showing you what has been marked
22 as Defendants' Exhibit 10 and ask if you recognize
23 this document.

24 A. I was sent this document, that is
25 correct.

EXHIBIT #31 (3)

Page 126

1 A. Trombetta

2 Q. Do you recognize this document?

3 A. I recognize this document.

4 Q. Is this the document that you were
5 just referring to a second ago as the declaration
6 from Mr. Novocin?

7 A. This is indeed that very document.

8 Q. Can you tell us when this was filed?

9 A. It was filed June 26th of 2020.

10 Q. And can you see when it was signed?

11 A. June 25th of 2020.

12 Q. And do you see in the third paragraph,
13 can you read that please?

14 A. You want me to read?

15 Q. Yes, please.

16 A. "In 2012, Estate Auctions listed a
17 painting on its eBay storefront that I (Norb
18 Novocin) personally inspected. The painting was
19 signed on the front by quote A. Trombetta end
20 quote and featured a description reading quote
21 Annamarie Trombetta quote gifted end quote 1997,
22 painted quote 1972 end quote in red along the back
23 stretcher (the painting)."

24 Q. And your understanding of this
25 paragraph is what? Withdrawn.

EXHIBIT
#31:
(X)

Plaintiff000142



EXHIBIT # 31(4)

Page 127

1 A. Trombetta

2 What is your understanding of this
3 paragraph?

4 A. My understanding is that this is a
5 complete false statement.

6 Q. Do you understand that Estate Auctions
7 claims that it listed a painting on its eBay
8 storefront in 2012?

9 A. I understand that my name was used
10 incorrectly based on that dual A Trombetta,
11 Annamarie Trombetta incorrectly used, I don't know
12 what to think at this point. You are trying to
13 build something around a false statement.

14 Q. Are you accusing Mr. Novocin of lying
15 here?

16 A. I am clarifying that A Trombetta,
17 Annamarie Trombetta in the year 1972 and/or in the
18 year 1977 did not paint in oil.

19 Q. Do you refute the fact that Mr.
20 Novocin is conceding that in 2012 Estate Auctions
21 listed a painting on its eBay store front?

22 A. It is his declaration. If he is not
23 here to validate or stand by his statement, I as a
24 private person who had nothing to do with the
25 composition and the declaration, cannot give you

EXHIBIT # 31

(5)

Page 128

1 A. Trombetta

2 any answer --

3 Q. Are you refusing --

4 A. -- with certainty. Am I refuting, of
5 course I am. That is my name. That is my initial
6 and last name and the dates listed are dates that
7 I did not paint the painting was signed.

8 Q. I am asking a different question. It
9 says "In 2012 Estate Auctions listed a painting on
10 its eBay storefront."

11 Do you see that?

12 A. I see it. Asked and answered, number
13 one. I will further clarify since I had nothing
14 to do with this painting and I know this to be a
15 false statement, an incorrect statement, a
16 statement that when I informed Mr. Novocin that I
17 was not the artist, he refuted as a mistake.

18 Q. All I am asking is whether or not in
19 2012 Estate Auctions listed a painting on its eBay
20 storefront? That's all I am limiting this
21 question to.

22 Do you see that statement?

23 A. I understand your point. It is
24 information. Whether it is correct or not I
25 cannot make a verifiable statement as to whether

EXHIBIT #31 (6)

Page 129

1 A. Trombetta

2 it is true or not.

3 Q. So you don't though whether or not in
4 2012 Estate Auctions listed a painting on its eBay
5 store front?

6 A. I do not know if that statement that
7 Estate Auctions Inc. listed a painting in that
8 year 2012 on eBay. I do not know that to be
9 verifiably true.

10 Q. Do you know whether Mr. Novocin
11 inspected, personally inspected the painting?

12 A. I have never met Mr. Novocin. I
13 cannot answer that question.

14 Q. Do you have any evidence that Mr.
15 Novocin did not personally inspect the painting?

16 A. I can't say with certainty. I don't
17 know this person. What I can say with certainty
18 is that he claims my name is on it, this painting,
19 when I say it and in those years I never painted
20 in oil. I was nine-years old.

21 Q. When did you start painting in oil?

22 A. That had been asked and answered and
23 we read it in my biography.

24 Q. I don't think I asked the question.
25 When did you start painting in oil?

EXHIBIT #31(7)

Page 130

1 A. Trombetta

2 Do you need to --

3 A. I began my formal training -- no. I
4 am trying to point out to you that it states in my
5 biography I began my formal training --

6 Q. Did you paint in --

7 A. -- in high school. In answer to your
8 question in high school.

9 Q. That's when you started painting in
10 oil?

11 A. That is correct.

12 Q. You never painted in oil before then?

13 A. For the record, oil and oil paints are
14 highly toxic. For a child to paint in oil the
15 atmosphere and the paints would have to be clearly
16 and carefully monitored. Some paints in oil have
17 a warning on them. That's how toxic they are.

18 Q. When did you start painting in oil?

19 A. Asked and answered.

20 Q. In high school?

21 A. Correct.

22 Q. So that would have been somewhere in
23 the late 1970s, early eighties?

24 A. 1980 I believe. I need to take a
25 bathroom break.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANNAMARIE TROMETTA,

Plaintiff,

v.

NORB NOVOCIN, MARIE NOVOCIN,
ESTATE AUCTIONS, INC., WORTHPOINT
CORPORATION, WORTHPOINT.COM, and
JASON PECKER,

Defendants.

EXHIBIT

Case No. 18-cv-0993-RA-SLC

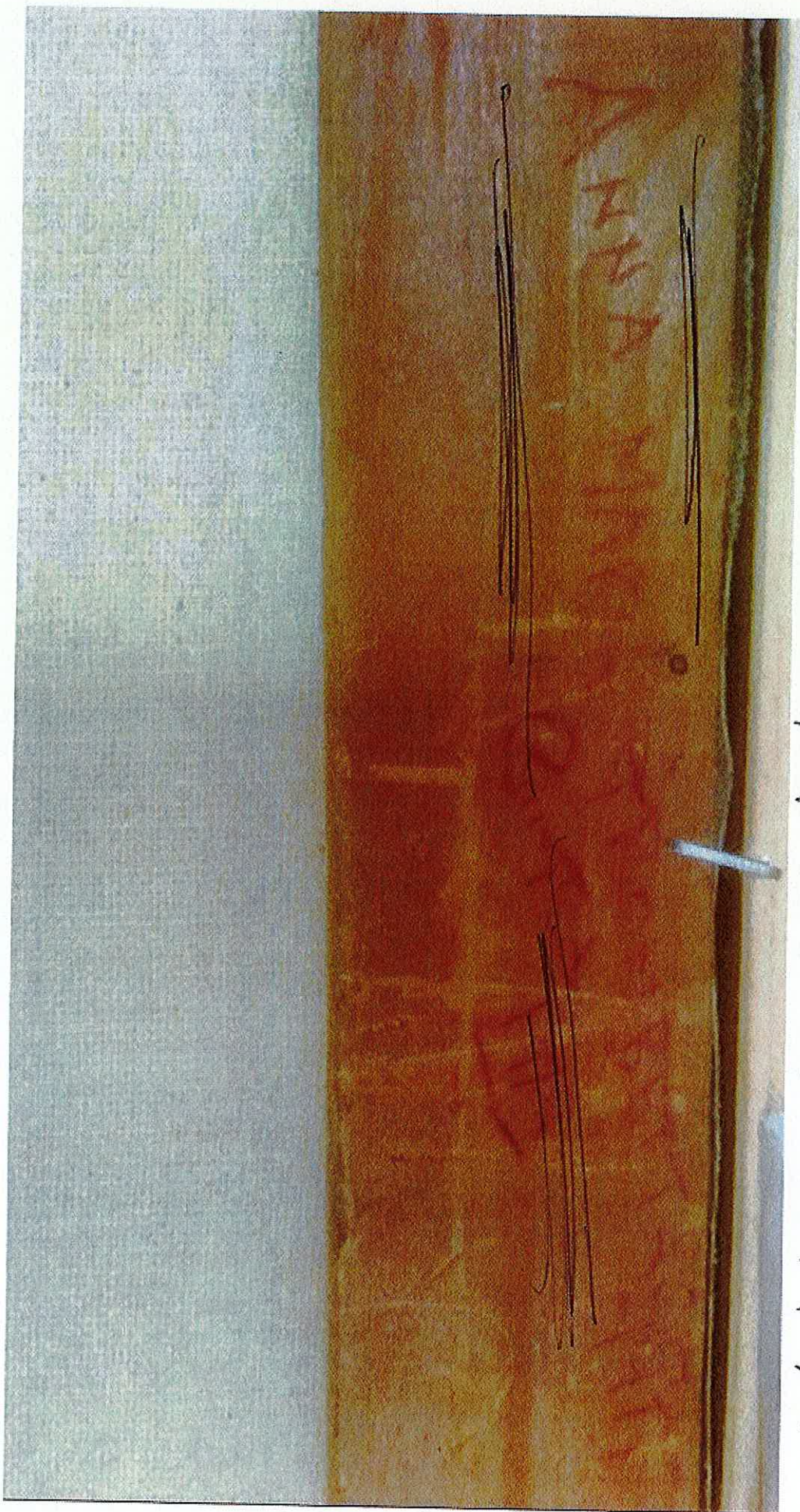
#32

**DECLARATION OF NORB NOVOCIN IN SUPPORT OF DEFENDANTS' MOTION
FOR AN ORDER REQUIRING PLAINTIFF TO POST A BOND**

I, Norb Novocin, declare as follows:

1. Together with my wife and co-defendant in this case, Marie Novocin, I owned and operated Estate Auctions, Inc. from April 23, 2012 until 2019.
2. Estate Auctions curated a wide array of art and similar items that it sold through an online storefront on eBay.
3. In 2012, Estate Auctions listed a painting on its eBay storefront that I personally inspected. The painting was signed on the front by "A. Trombetta" and featured an inscription reading "Annamarie Trombetta 'Gifted' 1997, 'Painted' 1972" in red along its back stretcher (the "Painting").
4. As was our typical practice, I conducted research to identify the artist who signed the Painting using online research tools designed for that purpose such as *AskArt.com*.
5. When researching the Painting, I found only one artist whose name matched "A. Trombetta" and that artist was the Plaintiff, Annamarie Trombetta. Because "Annamarie

Exhibit
#33 Photo AINA MARIA
TROMBETTA



Plaintiff 000137

Exhibit B
#3312 Plaintiff's First Name Signator



#3 ~~Exhibit~~

NNA

A4

MARIA

TRUMBETTA

Plaintiff 000143

Exhibit #33

EXHIBIT #34

15. Figure 9 shows, once again, that the visitor on May 8, 2017 also encountered the “404 Page not found” error, which demonstrates with a reasonable degree of professional certainty that the URL had not returned any content and had not been reloaded.

16. I further declare that there have not been any tagging errors or outages that would have caused significant data loss to WorthPoint’s data processing server or Google Analytics account during the relevant time periods from 2012 to present.

17. WorthPoint monitors their Google Analytics account closely and logs issues in Google Analytics as annotations. There are no relevant annotations in Google analytics indicating any tagging errors or outages during the relevant time period.

18. WorthPoint does not sell any artworks or collectables. Rather, visitors and subscribers to WorthPoint’s website are given an opportunity to view available information on sales of artwork. Further, only paid subscribers can view the price for which listed artworks or collectibles previously sold. WorthPoint was not involved in the sale of the 1972 Man with Red Umbrella painting, did not create the content in the listing, did not participate in identifying the artist of the painting, and was not party to the inclusion of plaintiff’s biography in the original listing.

19. According to WorthPoint’s log of price lookups (a true and correct screenshot of which is annexed hereto as Exhibit 3 and Figure 10 below) made from the price guide detail page, only two users made those requests for the artwork described in the subject URL. Upon information and belief, annamarie@trombettaart.com is plaintiff’s email address, meaning that one of the two users looking up the price for the subject painting was plaintiff herself. Upon information and belief, the other visitor, with an address of Simianarts@cs.com appears to have been plaintiff’s friend.

EXHIBIT #34

Figure 10:

```
worthpoint=> select email,date_unsubscribed from price_lookup, wpuser where wpuser.id = price_lookup.user_id
and inventory_id='368924172';
```

email	date_unsubscribed
annamarie@trombettaart.com	2016-02-03 23:25:13.404
simianarts@cs.com	2015-08-31 10:10:54.099

(2 rows)

20. I have searched WorthPoint's records and confirmed that neither user referenced in Figure 10 was an active subscriber to WorthPoint's services after February 3, 2016. Once they were inactive, they would not have been able to see the price that the painting previously sold at.

21. WorthPoint's website currently receives approximately 650,000 Googlebot spidering data refresh requests per day to price guide detail pages, which Google does in order to capture the content of those pages for their search engine, as well as cache versions of pages. WorthPoint currently has over 670 million price guide detail pages, which means that on average, each individual page may be spidered by Google and refreshed approximately once per 1,031 days. The frequency at which Googlebot returns to an individual URL may vary greatly, but on average individual price guide detail pages such as the URL in question are requested very infrequently if at all.

22. In my personal experience serving as the SEO lead for WorthPoint since 2008, the overall volume of price guide detail pages and spidering rates were different in 2015-2017 vs currently, but the ratios of how often each page may be crawled and refreshed has remained quite consistent. Annexed hereto as Exhibit 4 and Figure 11 is a true and correct screenshot of WorthPoint's crawl request data:

Figure 11:

EXHIBIT #35

Page 47

1 A. Trombetta

2 G-mail account prior to 2017?

3 A. No.

4 Q. Other than A Trombetta art at
5 G-mail.com and Trombetta art at Yahoo.com, have
6 you used any other e-mail accounts since 2015?

7 A. Yes.

8 Q. What other e-mail accounts have you
9 used since 2015?

10 A. Since 2015?

11 Q. Correct.

12 A. Give me a moment. In 2015 I believe I
13 only have the one e-mail for Yahoo.

14 Q. After 2015 other than the A Trombetta
15 art at G-mail.com, had you used any other e-mail
16 accounts to the present?

17 A. To the best of my recollection, no.
18 There was only the one e-mail at Yahoo.

19 Q. No, but since then, you said that you
20 started using A Trombetta art at G-mail.com in
21 2017?

22 A. I will say this, my website has an
23 e-mail and this is one of those situations where
24 details -- it is like an old computer. The file
25 won't upload upon immediate command. It takes a

EXHIBIT # 35

Page 48

A. Trombetta

Yahoo email

while.

So to clearly answer your question again, there was the Yahoo account and there was the e-mail related to my website.

Q. And the G-mail?

A. The G-mail came into existence late in 2017.

Q. So the -- your website domain is Trombetta art.com?

A. That's correct.

Q. And the e-mail that you had there was Annamarie at Trombetta art.com; is that correct?

A. That is correct.

Q. Did you have any other e-mail through Trombetta art.com?

A. That's the one e-mail.

Q. And that was set up when you started your website?

A. That is correct.

Q. But you didn't use that regularly; is that fair to say?

A. I checked it regularly.

Q. But your outgoing e-mail was through Yahoo until 2017?

EXHIBIT #35

Page 178

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A. Trombetta

Yahoo email

and make an inquiry.

Q. Have you done that over the last six years?

A. I cannot say that I have.

Q. Do you know whether there is any evidence that Worthpoint visited your website prior to February 2015 or August 2015?

A. I need to answer this in three particular ways. First and for most, since this occurred in 2015 it has been a nightmare in which like a horror movie the source of the chaos and confusion keeps coming back to life and has yet to be vanquished.

Secondly, I have e-mails from Worthpoint that were sent to my website.

Three, I never gave Worthpoint my e-mail address from my website. That is an important point.

Q. You have no record of Worthpoint being on your website in 2012; correct? Yes or no?

A. At present I do not.

Q. And you have no record of Worthpoint being on your website prior to August 13, 2015; is that correct; yes or no?

EXHIBIT #: 36 Page 8

EBay Customer Service

We can only provide if we have an item number. I can provide the item number. All right.

00;14;38;18 - 00;14;41;13

Annamarie Trombetta

Thank you

EBay Customer Service

please. Stay on the line.

00;14;41;13 - 00;14;41;26

Annamarie Trombetta

I will.

00;14;42;18 - 00;14;43;10

EBay Customer Service

I will Be placing you on hold.

00;14;43;19 - 00;14;45;01

Annamarie Trombetta

Thank you. Thank you.

00;14;46;11 - 00;14;48;06

EBay Customer Service

Thanks so much for staying on line here Anna

00;14;48;08 - 00;14;49;15

Annamarie Trombetta

Yes. And your name?

EBay Customer Service

Yeah, my name is Jamie.

00;14;53;05 - 00;14;57;27

Annamarie Trombetta

Jamie. Jamie, what do you mean by it was a third party seller.

00;14;58;17 - 00;15;01;06

Jamie EBay Customer Service

Um, it's like they're using a third party application.

00;15;02;18 - 00;15;03;10

Annamarie Trombetta

Who is using.

00;15;03;10 - 00;15;09;11

Jamie EBay Customer Service

A open third party apps on their account. And regarding that, that is actually not from ebay anymore.

00;15;09;17 - 00;15;12;14

Annamarie Trombetta

EBAY
Phone Transcript

EXHIBIT #

36 Page 9

OK, it's not from eBay, is it from WorthPoint?

00;15;13;08 - 00;15;22;00

Jamie eBay Customer Service

Yeah. And I tried to get in touch with one of the experts regarding it, and they have informed me that if you want to go ahead and get some information on who is selling the item.

00;15;22;08 - 00;15;22;26

Annamarie Trombetta

Yes,

E Bay give Plaintiff
Worth Point's Phone

00;15;22;27 - 00;15;25;21

Jamie eBay Customer Service

you can Get in touch with Worth Point and we do have their phone number. Number

00;15;26;21 - 00;15;36;16

Annamarie Trombetta

OK, hold on one second. Yes, I'm listening. What is it?

E BAY
Confirms
WorthPoint
website

00;15;36;21 - 00;15;45;22

Jamie eBay Customer Service

Okay. The phone number for WorthPoint contact information. Customer service will be 877 481-5750.

1972 Post

00;15;46;12 - 00;15;56;24

Annamarie Trombetta

Well, I did call them and they said that I had to get in touch with eBay because if they don't sell anything, they're a database. So I keep going back and forth.

00;15;59;16 - 00;16;10;12

Jamie eBay Customer Service

Let me try see at our end to maybe they provided information like a third party app to give it to me tried to go ahead and provide that information here on eBay.

And do it again. OK,

Annamarie Trombetta

OK. Because I still don't understand what you mean by third party. You're saying that it is the responsibility of WorthPoint to have that information.

Jamie eBay Customer Service

Yes Ma'am

Annamarie Trombetta

Well, again, Worth Point keeps telling me that since they don't sell anything and that it was sold on eBay in 2012 that you would be the source of the seller Id.

00;16;42;26 - 00;16;55;26

Jamie eBay Customer Service

Exhibit #36 Page 19

00;40;32;10 - 00;40;40;26

Archer

eBay. Yeah. But if I'm going to be the one to create this page, I can get and add any webpage 's link, to any link on my page not just eBay

00;40;41;19 - 00;40;48;07

Annamarie Trombetta

Well, let me ask you this. Can can an unknown party put anything on the Internet.

00;40;52;01 - 00;40;56;04

Archer

that's possible.

00;40;56;17 - 00;41;20;04

Annamarie Trombetta

That's possible.

Archer

Yeah, it's coding.

Annamarie Trombetta

Coding. Well, how would you know whether it was coded because that would solve the riddle that an unknown party put this on the Internet. Would that be in the URL of worth point

00;41;23;12 - 00;41;27;09

Archer

I really can't understand this information. That said, assist you further. Like getting those information We need to find out for their seller is, but I don't have much information to link it to our database.

00;41;36;28 - 00;41;57;28

Annamarie Trombetta

OK, so is there anybody or any department, maybe a legal department that I can contact to find out how I can either determine who the seller is or possibly to get this link with eBay off the Internet.

00;42;01;01 - 00;42;06;26

Archer

And if they help you further, I can't pull up any correct information associated with the sale now because it's UNDEFINED Nothing is showing up here ...Ah ..just the source.. that it's sold on eBay.

00;42;16;08 - 00;42;33;13

Annamarie Trombetta

OK, if its undefined, but what's not undefined is the association of my name with your company with WorthPoint and with this piece of artwork and with the signature, it is my name that is being used.

00;42;35;19 - 00;42;46;12

Archer



ITEM REVIEW REQUEST

WorthPoint is a web site for collectors and consumers that provides price history and other information for all types of collectible items. These items are not for sale by WorthPoint.

We license the data displayed in the Worthopedia from a variety of sources. We are an official licensee of eBay and many of the leading auction houses. Our agreements permit us to display all art, antiques and collectible items - with full attribution - that are contained in eBay's and the respective auction house partners' product catalogs, along with the price paid for such item. Our licenses permit our members to use completed sales results and images displayed on the Worthopedia solely for research purposes. You may [review our content policy here](#).

If you believe you own the rights to the image/item and prefer it not be displayed, **do not** complete the form provided here. Instead, [request removal here](#).

Item Review

If you believe the item listed on the previous page is fraudulent or otherwise inappropriate for view, please supply the information requested below.

URL *

<http://www.worthpoint.com/worthopedia/1972-original-oll-painting-man-red-48924172>

Reason for review

The URL above is incorrect and the information is not legitimate. My name and biography were used in this fake advertisement. Your ad from your website is coming up on the Internet under my name, I am not the artist. Your listing is FALSE and the ad states there are 12 photos in the description but no photos are visible except a signature - that is NOT mine. Please remove this immediately.

Additional Items

EXHIBIT # 37 285

Platt # 000286

EXHIBIT # 37 B

286
92

10128	United States
ZIP / Postal Code	Country
Email *	Platt, A 00028
trombettaart@yahoo.com	
Telephone	
(212) 427-5990	

Addendum to Removal Request

If you believe the listed item infringes on your intellectual property rights, please designate the reason or reasons for the Claimed Infringement below.

- ☒ Trademark - Item infringement
Item is a counterfeit product which infringes the trademark owner's rights.
- ☐ Trademark - listing content infringement
Listing contains unlawful use of trademark
- ☒ Copyright - listing content infringement
Listing uses unlawful copy of copyrighted text.
Listing uses unlawful copy of copyrighted image.
Listing uses unlawful copy of copyrighted image and text.

Additional Items

If you have additional items listed in Worthopedia which you believe present infringement issues, you can either repeat the above process for each item or complete the information below:

Work(s) believed to be infringed (please include trademark registration or application number with each)

Listed on your website at the URL above is an ad for an Original-Oil Painting from 1972.. My name and self written biography from my website was used without my consent or knowledge. I am requesting that your infringing ad on your website be permanently removed . This information is fraudulent. Your company is claiming that I am the artist who painted the Original-Off Man With Red Umbrella in 1972. I did not paint this oil. I would have been 9 years old. PLEASE remove this false listing from your website and the Internet immediately.

2000